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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,079

07/14/2006

Horst Tillmann

5255-101PUS

9432

27799

7590

09/29/2008

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EXAMINER

MORGAN, EMILY M

ART UNIT

PAPER NUMBER

3677

MAIL DATE

DELIVERY MODE

09/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,079	Applicant(s) TILLMANN, HORST	
	Examiner EMILY M. MORGAN	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "J" of figure 4 is not listed in [0033], nor is it listed in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Examiner notes that no separate drawings were filed, so the drawings from the 371 filing documents were used for the following action. Should applicant file replacement drawings, please file all drawings and figures in order to ensure accurate prosecution.

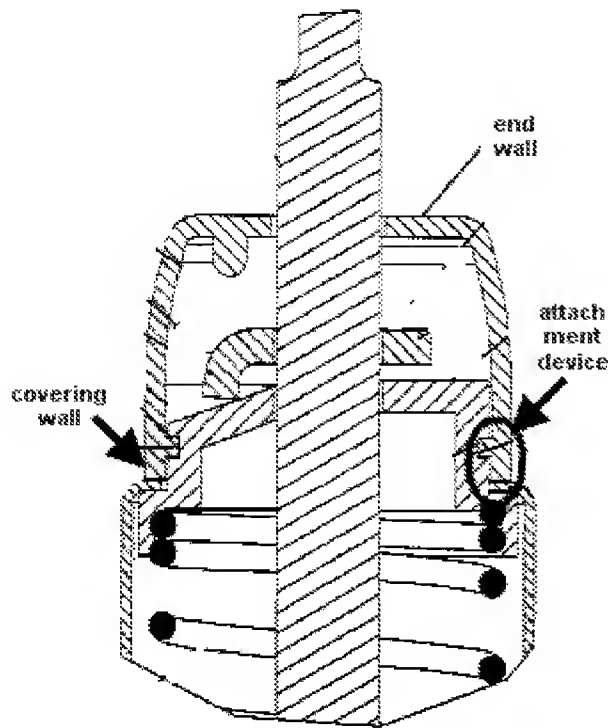
Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over patent 6317922 to Kondratuk.

Regarding claim 11, Kondratuk discloses an end cover 40 for a housing of a door closer (figure 10), comprising: a cover housing 40 comprising: an end wall; two opposite convexly curved lateral walls coupled to each other by the end wall; and a flat covering wall connected to the end wall and the lateral walls; and an attachment device supported by the cover housing. Please see figure below.



Kondratuk discloses the claimed invention except for the contour of the end wall and making the side walls flat formed into the shape of the door closer. It would have been obvious to one having ordinary skill in the art at the time the invention as made to shape the cap into a matching shape of the article, a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Kondratuk discloses a door closer, with a similar end cap for the cover of a door closer. The end wall is not shown as being convexly curved, and the side walls are convexly curved into a round shape. The shape of the cover and its side walls match the shape of the door closer, which is cylindrical. Changing the shape of the sidewalls to match the shape of the closer would have been obvious to one of ordinary skill in the art, as would the change of the shape of the end wall. The function

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of this piece would not be any different from its current use, and would have been motivated by the desire to create an aesthetically pleasing cover.

Regarding claim 12, Kondratuk discloses the end cover of claim 11, wherein the attachment device is an insert connection. The inner piece of the closer must be inserted into the opening of the cover in order for the cover to properly attach to the closer (figure 11).

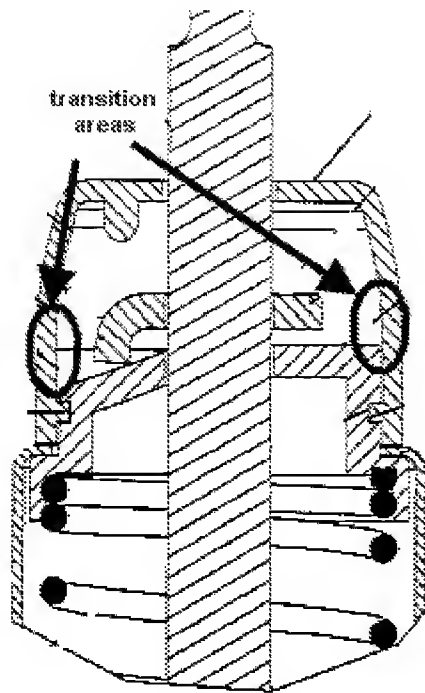
Regarding claims 13 and 14, Kondratuk discloses the end cover of claim 12, wherein the insert connection is an insert flange projecting into an inner chamber defined by the cover housing. Cover 40 integrally forms flange 52 (figure 11), which projects inwardly into the space created by the cap. Since the flange forms inwardly from the cap, it projects into the inner chamber.

Regarding claim 15, Kondratuk discloses the end cover of claim 13, wherein the end wall has a central area, the insert flange being integrally connected to the central area of the end wall. Figure 11 of Kondratuk also discloses having a knob on the interior of the end wall 40, which can be considered an insert flange integrally connected to the end wall.

Regarding claims 16 and 18, Kondratuk discloses the end cover of claim 13, wherein the cover housing further comprises a transition area which is disposed

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between the end wall and the covering wall, shown below. Kondratuk does not disclose the transition area having a contact portion, or the insert flange being integrally connected to the contact portion.

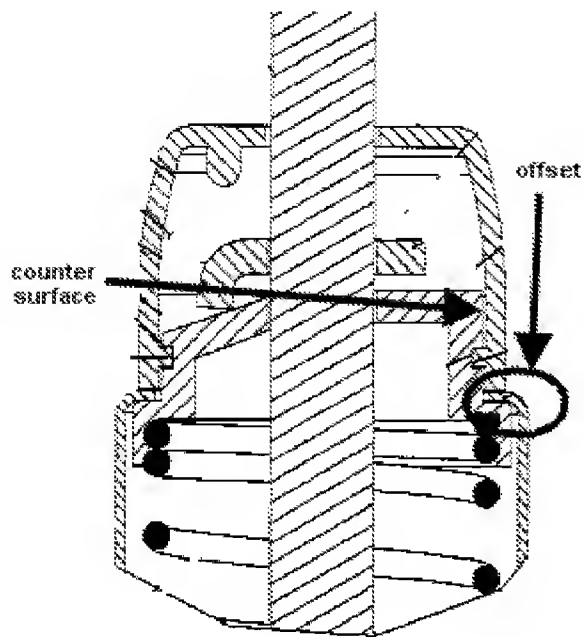


It would have been obvious to one of ordinary skill in the art to move the flanges 52 from the side wall to the transition area. Doing so would have the flange contacting the end of the cylinder 56 at the end, much like the orientation and arrangement shown in the instant figure 11. The flange used in the same manner would result in the flange being used as an attachment surface. Note that it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. See also, *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975) (the particular placement of a contact in a conductivity measuring device was held to be an obvious matter of design choice).

Regarding claim 17, Kondratuk discloses the end cover of claim 11, wherein the attachment device (shown in discussion of claim 1) has at least one attachment surface (shown having 3 sides along the projection 52).

Regarding claim 19, examiner notes this claim integrates a door closer with two of the inventor's covers (of claim 1) on each end of the door closer. Kondratuk discloses a door closer, with one end having the cover as claimed by applicant. The difference between the claim and claim 19 is the claim recites: two end covers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply an end cover to both ends, since it has been held that mere duplication of the essential working parts of a device involves only routine skilled the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. This would aid the article in becoming a more aesthetically pleasing door closer, and would perform similarly.

Regarding claim 20, Kondratuk discloses the door closer of claim 19, wherein each of the end sides as shown having a diminished transition area for receiving the respective end cover, the diminished transition area having a counter-surface (shown below) covered by the covering wall of the respective end cover, and creating an offset in an outer contour of the main housing.



Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMILY M. MORGAN whose telephone number is (571)270-3650. The examiner can normally be reached on Monday-Thursday, alternate Fri, 7:30am to 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/
Supervisory Patent Examiner, Art Unit 3677

Emm
/EMM/